

I. Task Force Policy for WHOIS Conflicts with Privacy Law

CONSENSUS POLICY RECOMMENDATION

In order to facilitate reconciliation of any conflicts between local/national mandatory privacy laws or regulations and applicable provisions of the ICANN contract regarding the collection, display and distribution of personal data via Whois, ICANN should:

1. Develop and publicly document a procedure for dealing with the situation in which a registrar or registry can credibly demonstrate that it is legally prevented by local/national privacy laws or regulations from fully complying with applicable provisions of its ICANN contract regarding the collection, display and distribution of personal data via WHOIS.
2. Create goals for the procedure which include:
 - a. Ensuring that ICANN staff is informed of a conflict at the earliest appropriate juncture;
 - b. Resolving the conflict, if possible, in a manner conducive to ICANN's Mission, applicable Core Values and the stability and uniformity of the Whois system;
 - c. Providing a mechanism for the recognition, if appropriate, in circumstances where the conflict cannot be otherwise resolved, of an exception to contractual obligations to those registries/registrars to which the specific conflict applies with regard to collection, display and distribution of personally identifiable data via Whois; and
 - d. Preserving sufficient flexibility for ICANN staff to respond to particular factual situations as they arise.